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Draft # 13062

ORDINANCE NO. 3054

AN ORDINANCE PROHIBITING SMOKING IN CERTAIN
PUBLIC PLACES

(Draft IV Version I)

WHEREAS, the Surgeon General of the United States has concluded that involuntary smoking causes disease, including heart disease and lung cancer, in non-smokers; and,

WHEREAS, smoke from a pipe, cigar, or cigarette of any kind constitutes a source of annoyance and discomfort to non-smokers and is a public nuisance, in addition to threatening the health of non-smokers; and,

WHEREAS, the City Council of the City of Tuscaloosa finds that in order to protect the health and welfare of the citizens of the City of Tuscaloosa and protect the rights of smokers and non-smokers alike, it is necessary to prohibit smoking in certain public places, except for certain areas designated as smoking areas.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF TUSCALOOSA that the Code of the City of Tuscaloosa be amended to add the following Article to Chapter 13 of the Code, said article to be numbered Article VI, which said article reads as follows:

"ARTICLE VI. Smoking in Public Places.

Sec. 13-92.

1. Definitions.

(a) "Smoke" or "Smoking" means the possession whether actual or constructive of a lighted pipe, cigar or cigarette of any kind, or any other lighted smoking equipment or device, and/or emitting or exhaling the smoke of a pipe, cigar or cigarette of any kind or any other lighted smoking equipment or device.

(b) Municipal Agency means an organization, association, corporation (whether for profit or non-profit), agency (whether public or quasi-public), person or firm, that applies for and receives an annual appropriation (whether in one lump sum or otherwise) by agency funding agreement or equivalent from the City of Tuscaloosa for the performance of cultural, educational, civic, historical, philanthropic, health, recreation, transportation or other functions that the City is authorized to appropriate funds therefor or to otherwise perform itself.

(c) Municipal Agency Facility means those enclosed areas of any building, complex or facility or portion thereof; leased, operated or controlled by a municipal agency to which the general public is routinely and customarily invited or permitted. Provided however, the term shall not apply to a private enclosed office, room or rooms within said facility, etc., to which the public is not routinely permitted or invited.

(d) Municipal Facility means those enclosed areas of any building complex or facility or portion thereof owned, leased, operated or controlled by the City of Tuscaloosa to which the general public is routinely and customarily invited or permitted. Provided, however, the term shall not apply to a private enclosed office, room or rooms within said facility, etc., to which the public is not routinely permitted or invited.

(e) "Service Line" means any indoor line of a restaurant, retail business or financial institution at which one or more persons are waiting for or receiving service of any kind, regardless of whether such services involves the exchange of money.

Sec. 12-93. Acts Prohibited

(a) It shall be unlawful and a violation of this Article for any person to:

- (1) Smoke in any bus or public passenger carrier (except taxi cabs, limousines, private charter buses) not engaged in interstate commerce.
- (2) Smoke in any elevator which is not in a private residence.
- (3) Smoke in a service line, a meat or produce counter, or in a cashier or check-out line.
- (4) Smoke in a municipal facility or municipal agency facility. (Subject to exceptions)
- (5) Smoke in a spectator area of a theatre or movie house other than a dinner theatre.
- (6) Smoke in any area in violation of any law, ordinance, regulation or Code.

(b) The above provisions shall not apply to the following:

- (1) Performers upon stage, provided that the smoking is part of a theatrical production.

- (2) An entire room or hall which would otherwise be a "public place," but which is being utilized for private social functions, provided that the event is under the control of the sponsor of the function.
- (3) A private enclosed office, room or rooms to which the general public is not routinely permitted or invited of municipal facilities or municipal agency facilities, provided that this exception shall not be construed to permit smoking in reception areas or lobbies.

Sec. 13-94. Duty to Post No Smoking Symbols.

The owner, lessee or person otherwise in control of any municipal facility, municipal agency facility or service line or any area or thing in or upon which smoking is prohibited by this article, shall prominently post in such places the international "No Smoking" symbol, consisting of a pictorial representation of a lighted cigarette enclosing in a red circle, with a bar across the same. The sign shall be posted in a clear and conspicuous manner in every such area.

Sec. 13-95. Public Places: Designation of Smoking Areas.

(a) The owner, lessee or person otherwise in charge or control of a place or area within which smoking would otherwise be prohibited by this Article, may designate one or more areas thereof as smoking areas, wherein smoking may be permitted in accordance with the criteria set out herein:

(b) Any such areas designated as smoking areas shall conform to the following requirements and a smoking permitted sign shall be displayed therein:

- (1) Each such area should be set apart or separated from non-smoking areas.
- (2) Each such area shall be situated so that existing barriers and ventilation systems are used to minimize the irritating and toxic effects of smoke in adjacent non-smoking areas.
- (3) Each such area must be designated by appropriate signs which are clearly visible to patrons in and entering the area.

- (4) Each such area shall contain ashtrays, containers and proper facilities for the extinguishment of smoking materials.
- (5) The following areas shall not be designated as, nor form part of designated smoking area(s):
- (i) Any elevator.
 - (ii) A service line, meat or produce counter, or a cashier or check out line.
 - (iii) Public restroom facilities.
 - (iv) The spectator areas of concert halls, public assembly areas, auditoriums and indoor public recreational facilities of municipal facilities or municipal agency facilities.
 - (v) Lobby or reception areas of municipal facilities or municipal agency facilities.
 - (vi) Any business or public passenger carrier not engaged in interstate commerce.

Sec. 13-96. Smoking in Theatres, etc. Prohibited.

Smoking in the spectator area of a theatre is hereby prohibited. The owner, lessee or person otherwise in charge of a theatre shall post signs conspicuously in the lobby of such theatre, stating that smoking is prohibited within the spectator area of the theatre, and in the case of motion picture theatres such information shall be shown upon the screen prior to the showing of such feature motion picture.

Sec. 13-97. Penalties.

Any person, firm, corporation, or other entity violating any of the provisions of this article shall be punished as provided in Section 1-8 of the Code of the City of Tuscaloosa or as set forth in any ordinance adopting a schedule of fines. Each day's violation constitutes a separate offense.

Sec. 13-98. Severability.

The provisions of this article are declared to be severable. If any portion of this article shall be held unconstitutional or

otherwise invalid by a court of competent jurisdiction, such ruling shall not affect the remaining portions of this article nor render the remaining portion of Article VI invalid.

The provisions of this Ordinance or Article expressly does not repeal or amend any existing ordinance or Code prohibiting smoking. All other ordinances in conflict herewith are repealed to the extent of the conflict.

Sec. 13-99. Effective Date.

This Ordinance shall become effective sixty (60) days from the date of its final enactment.

Adopted this the 5 day of April, 1990.
LOCAL GOV. COUNCIL

COUNCIL ACTION

Ord. _____	Res. _____
Intro. _____	Passed _____
2nd Reading _____	Failed _____
Unanimous _____	Tabled _____
Failed _____	Com. _____
Tabled _____	Amended _____
Com. _____	
Amended _____	

Comments: _____
